

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 908, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG PRODUCT—"NYAL'S HEADACHE WAFERS."

On or about August 13, 1909, Frederick Stearns & Co., a corporation, Detroit, Mich., shipped from the State of Michigan into the State of Illinois a quantity of a drug product labeled: "Nyal's Headache Wafers. Acetanilide 4 grains with caffeine alkaloid 1 grain in each wafer. For Headaches. Of value in neuralgia, La Grippe, Rheumatism and all allied pains. Prepared for New York and London Drug Company, New York, U. S. A. * * *" A circular packed with the product contained, among other statements, the following: "Nyal's Headache Cure. It does not produce any bad after effects. * * * nor does the system become habituated to its use so as to produce a noxious drug habit." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the product was found to consist essentially of acetanilide, caffeine, and starchy material. As the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said Frederick Stearns & Co. and the party from whom the samples were procured were afforded opportunities for hearings. As it appeared after hearings held that the above shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General with a statement of the evidence upon which to base a prosecution.

On February 17, 1910, a criminal information was filed in the District Court of the United States for the Eastern District of Michigan against the said Frederick Stearns & Co., charging the above shipment and alleging that the product so shipped was misbranded because it was labeled as above set forth, and the statements contained in the above label and circular were false, misleading, and deceptive to the purchasers, in that the use of the word "Nyal's" was fictitious; in that the words "Nyal's Headache Cure" appearing on the printed circular above referred to were false and misleading, as the product was not a cure for headache; in that said circular contained

the words "it does not produce any bad after effects" and "nor does the system become habituated to its use so as to produce a noxious drug habit," when as a matter of fact the product does produce bad after effects upon the user thereof, and from the use thereof the system does become habituated to its use so as to produce a noxious drug habit.

On February 27, 1911, the defendant corporation appeared by Wayland Stearns, its second vice-president, and entered a plea of nolo contendere to the above information, whereupon the court imposed a fine of \$2.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *May 24, 1911.*

